

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 8**

**Introduced by Assembly Member Cohn-Chu  
(Coauthor: Assembly Member Cohn)**

December 6, 2004

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~~An act to amend Section 1367.635 of the Health and Safety Code and to amend Section 10123.86 of the Insurance Code, relating to health coverage. An act to amend Section 14105.436 of the Welfare and Institutions Code, relating to Medi-Cal.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 8, as amended, ~~Cohn Chu. Health care coverage: mastectomies and lymph node dissections—Medi-Cal: AIDS and cancer treatment drugs: manufacturer rebates.~~

*Existing law provides for the Medi-Cal program, under which qualified low-income persons receive health care benefits. Existing law authorizes the State Department of Health Services to enter into contracts with manufacturers of single source and multiple source drugs on a bid or nonbid basis and to maintain a list of contract drugs for purposes of the Medi-Cal program.*

*Existing law prescribes conditions under which certain drugs for use in the treatment of acquired immunodeficiency syndrome (AIDS) or an AIDS-related condition or cancer are deemed approved for addition to the Medi-Cal list of contract drugs or considered a Medi-Cal benefit.*

*Existing law requires, commencing July 1, 2002, all pharmaceutical manufacturers to provide to the department a state rebate, in addition to rebates pursuant to other provisions of state or federal laws, for any drug products that have been added to the Medi-Cal list of*

*contract drugs pursuant to the above-described provisions related to drugs used to treat AIDS and cancer. This provision becomes inoperative on July 1, 2005, and is repealed on January 1, 2006.*

*This bill would delete the inoperative date and the repeal date, thereby extending the provision indefinitely.*

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans and makes a violation of the act a crime. Existing law also provides for the regulation of health insurers by the Insurance Commissioner.~~

~~Existing law requires every health care service plan contract and every policy of health insurance that provides coverage for mastectomies and lymph node dissections to allow the length of a hospital stay associated with these procedures to be determined by the attending physician and surgeon in consultation with the patient and consistent with sound clinical principles and processes.~~

~~This bill would instead require health care service plans, other than specialized plans, and policies of health insurance to provide a minimum of 48 hours of inpatient care for a mastectomy and 24 hours of inpatient care for a lymph node dissection for the treatment of breast cancer, unless the physician and surgeon and the patient determine that a shorter period of inpatient care is appropriate. The bill would also require coverage to be provided for a followup visit with a licensed health care professional within 48 hours of the patient's discharge from inpatient care. Because a willful violation of the provisions applicable to health care service plans would be a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~ no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 1367.635 of the Health and Safety Code~~
- 2     ~~is amended to read:~~

1     *SECTION 1. Section 14105.436 of the Welfare and*  
2     *Institutions Code is amended to read:*

3     14105.436. (a) Effective July 1, 2002, all pharmaceutical  
4     manufacturers shall provide to the department a state rebate, in  
5     addition to rebates pursuant to other provisions of state or federal  
6     law, for any drug products that have been added to the Medi-Cal  
7     list of contract drugs pursuant to Section 14105.43 or 14133.2  
8     and reimbursed through the Medi-Cal outpatient fee-for-service  
9     drug program. The state rebate shall be negotiated as necessary  
10    between the department and the pharmaceutical manufacturer.  
11    The negotiations shall take into account offers such as rebates,  
12    discounts, disease management programs, and other cost savings  
13    offerings and shall be retroactive to July 1, 2002.

14    (b) The department may use existing administrative  
15    mechanisms for any drug for which the department does not  
16    obtain a rebate pursuant to subdivision (a). The department may  
17    only use those mechanisms in the event that, by February 1,  
18    2003, the manufacturer refuses to provide the additional rebate.

19    (c) In no event shall a beneficiary be denied continued use of a  
20    drug that is part of a prescribed therapy and that is the subject of  
21    an administrative mechanism pursuant to subdivision (b) until the  
22    prescribed therapy is no longer prescribed.

23    ~~(d) This section shall become inoperative on July 1, 2005, and,~~  
24    ~~as of January 1, 2006, is repealed, unless a later enacted statute,~~  
25    ~~that becomes operative on or before January 1, 2006, deletes or~~  
26    ~~extends the dates on which it becomes inoperative and is~~  
27    ~~repealed.~~

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30     **All matter deleted in this version of the bill**  
31     **appears in the bill as introduced in the**  
32     **Assembly. 12/6/04 (JR11)**  
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